

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

Motion Granted.

s/Jack Zouhary
U.S. District Judge

Aug 04, 2011

In re POLYURETHANE FOAM
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL CASES

MDL Docket No. 2196
Index No. 10-MD-2196 (JZ)

DEFENDANT FOAMEX INNOVATIONS, INC.'S MOTION TO FILE UNDER SEAL

Pursuant to Local Rule 5.2, Defendant Foamex Innovations, Inc. ("FXI") respectfully moves to file under seal its Motion and Memorandum of Points and Authorities in Support of Its Motion for Reconsideration of the Court's July 19, 2011 Order or, in the Alternative, for Certification under 28 U.S.C. § 1292(b) ("Memorandum"), as well as Exhibits A and B to the Declaration of Peter M. Ryan ("Ryan Declaration") filed in support of the Memorandum.

Exhibit A to the Ryan Declaration contains excerpts from the Affidavit of Crecentia Zadik, a Special Agent with the Federal Bureau of Investigation ("FBI Affidavit"), submitted to the United States District Court for the Western District of North Carolina in support of a search warrant in conjunction with an investigation by the Federal Bureau of Investigation and the Antitrust Division of the United States Department of Justice. Although originally filed under seal, the FBI Affidavit was briefly unsealed before being resealed.

Exhibit B to the Ryan Declaration contains excerpts from the Information to Obtain Warrant of Pierre-Yves Guay, a Senior Competition Law Officer with the Canadian Competition Bureau, ("CBC Affidavit"), submitted to the Superior Court of Justice (Toronto Region) in support of a search warrant. On information and belief, the CBC Affidavit is not readily available to the public.

As set forth in the Memorandum, Plaintiffs' allegations in the CAC and ICAC are taken from these documents. In addition, the Court relied on purported admissions taken from the FBI Affidavit and the CBC Affidavit in rendering its July 19, 2011 decision denying FXI's Motions to Dismiss the Direct and Indirect Purchaser Plaintiffs' Consolidated Amended Class Action Complaints. *See* July 19 Order at 5-6. The Memorandum incorporates excerpts from these documents. FXI respectfully requests that the Court issue an Order permitting the filing under seal of the Memorandum and Exhibits A and B to the Ryan Declaration.

Respectfully submitted,

/s/ Peter M. Ryan

Francis P. Newell

Peter M. Ryan

COZEN O'CONNOR

1900 Market Street

Philadelphia, PA 10103

215.665.2000

215.701.2157 (Fax)

fnewell@cozen.com

pryan@cozen.com

Attorneys for Foamex Innovations, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2011, a copy of the foregoing Defendant Foamex Innovations, Inc.'s Motion to File Under Seal was served electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipts. Parties may access this filing through the Court's ECF system.

/s/ Peter M. Ryan

Peter M. Ryan

COZEN O'CONNOR

1900 Market Street

Philadelphia, PA 10103

215.665.2000

215.701.2157 (Fax)

pryan@cozen.com